

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

NATIONAL INDOOR FOOTBALL)	CIVIL DIVISION
LEAGUE, LLC,)	
)	No. CA 2 – 548
Plaintiff,)	
)	ELECTRONICALLY FILED
vs.)	
)	
R.P.C. EMPLOYER SERVICES, INC.)	
and DAN J. D'ALIO,)	
)	
Defendants.)	

**MOTION TO LIMIT TRIAL ISSUES, SETTLE AS TO LESS THAN ALL
DEFENDANTS AND AMEND CAPTION**

AND NOW, comes defendants RPC EMPLOYER SERVICES, INC. and DANIEL J. D'ALIO, by and through their attorney BERNARD C. CAPUTO, ESQUIRE and moves this Honorable Court for relief as follows:

- 1) Plaintiff filed a multi-count complaint against defendants and alleged Fraud, Misrepresentation, and Civil RICO violations against RPC Employer Services and/or Daniel D'Alio.

- 2) This matter was previously scheduled for a jury trial on March 28, 2006 before the Honorable Terrence McVerry.

3) After jury selection and prior to opening statements, plaintiff settled the Fraud, Misrepresentation, and Civil RICO claims against defendants RPC Employer Services and Daniel D'Alio.

4) The count for Breach of Contract against RPC Employer Services was to be mediated outside the Court.

5) The settlement agreement was placed on the record and the case closed.

6) Due to a breakdown in the mediation process on October 11, 2006, the plaintiff moved to re-open the case and set a trial date.

7) This Court scheduled the matter for trial on November 2, 2006.

8) Defendants move to amend the pleadings and caption to reflect the settlement agreement of March 28, 2006 and limit the trial to a Breach of Contract claim against RPC Employer Services only.

9) Defendant Daniel D'Alio respectfully requests that the caption be amended to strike his name as a defendant since no allegations remain against him individually and the Breach of Contract is against RPC Employer Services, his employer, only.

WHEREFORE, the defendants request an Order limiting the trial to the Count for Breach of Contract against RPC Employer Services only and the caption will be amended to strike Daniel D'Alio as a defendant.

JOHN A. CAPUTO & ASSOCIATES

BY: s/Bernard C. Caputo, Esquire
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CERTIFICATE OF SERVICE

We, the undersigned, do hereby certify that true and correct copies of the foregoing MOTION TO LIMIT TRIAL ISSUES, SETTLE AS TO LESS THAN ALL DEFENDANTS AND AMEND CAPTION has been electronically served through the CM/ECF electronic filing system this 18th day of October, 2006.

JOHN A. CAPUTO & ASSOCIATES

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